
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1035

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Morris, Hudgins, Eickmeyer, Linville and B. Sullivan)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to anaerobic digestion power; reenacting and
2 amending RCW 43.84.092; adding a new section to chapter 43.105 RCW;
3 adding a new chapter to Title 43 RCW; creating new sections; and
4 providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature declares it to be a clear
7 public purpose and governmental function to promote anaerobic digestion
8 as both a waste treatment technology and a sustainable energy-producing
9 technology. The legislature finds that anaerobic digester projects in
10 the state provide numerous environmental benefits; they reduce odors
11 from organic waste, control pathogens, minimize sludge production,
12 conserve nutrients, and reduce greenhouse gas emissions. In addition
13 to providing environmental benefits, anaerobic digestion produces power
14 using a clean, renewable resource. Encouraging the development of
15 anaerobic digestion power will reduce the state's reliance on other
16 fossil fuel-based sources to meet existing and projected load
17 requirements, which provides a substantial benefit to the citizens of
18 the state.

1 Despite the numerous environmental and energy-producing benefits
2 that result from anaerobic digester projects, many potential anaerobic
3 digester projects are not pursued in this state because of the high
4 capital costs for construction of such projects. Therefore, it is the
5 intent of the legislature to establish a clean streams grant program to
6 assist anaerobic digestion power producers by bringing down the cost of
7 the initial capital investment.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Anaerobic digester project" means a facility that processes
11 animal manure or agricultural waste into biogas and dried manure using
12 microorganisms in a decomposition process within a closed, oxygen-free
13 container.

14 (2) "Department" means the department of community, trade, and
15 economic development.

16 (3) "Director" means the director of the department of community,
17 trade, and economic development.

18 (4) "Power producer" means an individual or business that generates
19 power from an anaerobic digester located in the state, or an individual
20 or business that anticipates generation of power from an anaerobic
21 digester located in the state upon completion of the anaerobic digester
22 project.

23 NEW SECTION. **Sec. 3.** (1) In order to be eligible for a grant
24 under section 4 of this act, a person or entity that is in the process
25 of developing an anaerobic digester project in this state must, prior
26 to completion of the project, submit a call for subscriptions seeking
27 a power purchase agreement offer from an electric utility to purchase
28 power from the anaerobic digester project.

29 (2) Once a power purchase agreement offer has been made by a
30 potential purchaser, the power producer must ask their local electric
31 utility for transmission access to wheel the power from the generation
32 site to the potential purchaser who submitted the highest bid, if the
33 highest bid was not made by the local electric utility.

34 (3) If an agreement for transmission access cannot be reached
35 between the local electric utility and the power producer, the power
36 producer may send a written purchase request to the local electric

1 utility to request that the utility purchase the output of the
2 anaerobic digester project at the utility's avoided cost as required
3 under applicable federal law that obligates the utility to purchase
4 power from a qualifying facility.

5 (4) Once a power producer has secured a power purchase agreement
6 offer from a potential purchaser and has secured transmission access
7 for the power, the power producer may send a request to the department
8 to apply for a clean streams grant.

9 NEW SECTION. **Sec. 4.** (1) The department shall establish a clean
10 streams grant program to encourage the construction of anaerobic
11 digester projects in the state. A grant may be awarded to a producer
12 of anaerobic digester power that seeks assistance to pay for the
13 capital costs associated with their initial investment that have not
14 been satisfied by other funding sources.

15 (2) A power producer may apply for a clean streams grant by
16 submitting (a) the power purchase agreement offer between the power
17 producer and the purchaser, including the estimated revenue over the
18 life of the contract, and (b) a detailed analysis of the initial
19 capital investment cost of the anaerobic digester project.

20 (3) The department shall review applications from eligible power
21 producers. At a minimum, a power producer must meet the following
22 criteria in order to be eligible to participate in the grant program:

23 (a) The power producer is carrying original debt on the initial
24 capital investment in the anaerobic digester project that has not been
25 satisfied by other federal, state, or private funding sources;

26 (b) The power producer has secured a power purchase agreement offer
27 from a potential purchaser for the electricity; and

28 (c) The power producer was unable to secure sufficient revenue from
29 a potential purchaser to recover the initial capital investment over
30 the length of the power purchase agreement offer.

31 (4)(a) In determining the amount of the grant award, the department
32 shall review an applicant's power purchase agreement offer. Any grant
33 award determined by the department must supply the power producer with
34 no more than the power producer's cost to finance the initial capital
35 investment during the period of the power purchase agreement, minus the
36 revenue to be generated by the power purchase agreement offer between

1 the power producer and the potential purchaser, and minus any federal,
2 state, or private funding received for the anaerobic digester project.

3 (b) The grant award shall be based upon the annual electricity
4 output of the anaerobic digester project. The grant will be reviewed
5 annually. Upon review, the grant award may be adjusted to reflect
6 actual power produced for the previous year as compared to the
7 projected amount of power used to calculate the amount of the original
8 grant award.

9 (5) Once the department determines that a grant application
10 satisfies the criteria outlined in subsection (3) of this section, the
11 department shall, within sixty days, make a decision on whether to
12 offer a grant to the power purchaser. If the department decides to
13 extend a grant to a power producer, the grant award shall be contingent
14 on the power producer demonstrating actual production of power from the
15 anaerobic digester project.

16 (6) The department may adopt rules as necessary to implement the
17 grant award process under this section.

18 (7) Availability of grant funding from the department is contingent
19 on the availability of specific appropriations. If appropriations are
20 insufficient to cover all anaerobic digestion projects applying for a
21 grant, the department may prioritize and prorate grant awards as
22 necessary.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.105 RCW
24 to read as follows:

25 (1) By September 1, 2007, the department shall survey all desktop
26 computers owned by the state and identify which desktop computers are
27 suitable for using power management software.

28 (2) After conducting the review under subsection (1) of this
29 section, the department shall purchase power management software for
30 all desktop computers owned by the state that have been identified by
31 the department as suitable for using power management software. The
32 power management software must be purchased according to the terms of
33 the master contract number T06-MST-002 effective July 7, 2006, or a
34 subsequent contract entered into by the state for power management
35 software that offers comparable or better energy efficiency savings.

36 (3) The department must install power management software on all
37 desktop computers as expeditiously as possible.

1 (4) When acquiring new desktop computers, the department must
2 purchase and install power management software at the time of
3 acquisition, unless power management software is not suitable for a
4 particular desktop computer's intended use.

5 (5) The department may retain any rebate moneys the state receives
6 for energy conservation resulting from utilization of the power
7 management software.

8 NEW SECTION. **Sec. 6.** By December 1st of each year, the department
9 of information services shall report to the legislature on the number
10 of licenses installed, the amount of estimated energy saved per
11 computer per year, as well as the amount and number of rebates received
12 by the state as a result of implementing the power management software.

13 NEW SECTION. **Sec. 7.** Sections 5 and 6 of this act expire July 1,
14 2017.

15 NEW SECTION. **Sec. 8.** The clean streams and clear sky subaccount
16 is created in the state treasury as a subaccount of the energy freedom
17 account. Revenues to the subaccount shall consist of amounts
18 appropriated to the subaccount that represent energy savings generated
19 from use of power management software on state computers. All receipts
20 from appropriations made to the clean streams and clear sky subaccount
21 shall be deposited into the subaccount. Moneys in the subaccount may
22 be spent only after appropriation. Expenditures from the subaccount
23 may be used only for projects and activities authorized under this
24 chapter and under the clear sky program established in chapter . . .
25 (Second Substitute House Bill No. 1036), Laws of 2007. No more than
26 fifty percent of the moneys in the subaccount shall be used for a
27 single program or technology.

28 **Sec. 9.** RCW 43.84.092 and 2006 c 337 s 11, 2006 c 311 s 23, 2006
29 c 171 s 10, 2006 c 56 s 10, and 2006 c 6 s 8 are each reenacted and
30 amended to read as follows:

31 (1) All earnings of investments of surplus balances in the state
32 treasury shall be deposited to the treasury income account, which
33 account is hereby established in the state treasury.

1 (2) The treasury income account shall be utilized to pay or receive
2 funds associated with federal programs as required by the federal cash
3 management improvement act of 1990. The treasury income account is
4 subject in all respects to chapter 43.88 RCW, but no appropriation is
5 required for refunds or allocations of interest earnings required by
6 the cash management improvement act. Refunds of interest to the
7 federal treasury required under the cash management improvement act
8 fall under RCW 43.88.180 and shall not require appropriation. The
9 office of financial management shall determine the amounts due to or
10 from the federal government pursuant to the cash management improvement
11 act. The office of financial management may direct transfers of funds
12 between accounts as deemed necessary to implement the provisions of the
13 cash management improvement act, and this subsection. Refunds or
14 allocations shall occur prior to the distributions of earnings set
15 forth in subsection (4) of this section.

16 (3) Except for the provisions of RCW 43.84.160, the treasury income
17 account may be utilized for the payment of purchased banking services
18 on behalf of treasury funds including, but not limited to, depository,
19 safekeeping, and disbursement functions for the state treasury and
20 affected state agencies. The treasury income account is subject in all
21 respects to chapter 43.88 RCW, but no appropriation is required for
22 payments to financial institutions. Payments shall occur prior to
23 distribution of earnings set forth in subsection (4) of this section.

24 (4) Monthly, the state treasurer shall distribute the earnings
25 credited to the treasury income account. The state treasurer shall
26 credit the general fund with all the earnings credited to the treasury
27 income account except:

28 (a) The following accounts and funds shall receive their
29 proportionate share of earnings based upon each account's and fund's
30 average daily balance for the period: The capitol building
31 construction account, the Cedar River channel construction and
32 operation account, the Central Washington University capital projects
33 account, the charitable, educational, penal and reformatory
34 institutions account, the clean streams and clear sky subaccount of the
35 energy freedom account, the Columbia river basin water supply
36 development account, the common school construction fund, the county
37 criminal justice assistance account, the county sales and use tax
38 equalization account, the data processing building construction

1 account, the deferred compensation administrative account, the deferred
2 compensation principal account, the department of retirement systems
3 expense account, the developmental disabilities community trust
4 account, the drinking water assistance account, the drinking water
5 assistance administrative account, the drinking water assistance
6 repayment account, the Eastern Washington University capital projects
7 account, the education construction fund, the education legacy trust
8 account, the election account, the emergency reserve fund, the energy
9 freedom account, The Evergreen State College capital projects account,
10 the federal forest revolving account, the freight mobility investment
11 account, the freight mobility multimodal account, the health services
12 account, the public health services account, the health system capacity
13 account, the personal health services account, the state higher
14 education construction account, the higher education construction
15 account, the highway infrastructure account, the high-occupancy toll
16 lanes operations account, the industrial insurance premium refund
17 account, the judges' retirement account, the judicial retirement
18 administrative account, the judicial retirement principal account, the
19 local leasehold excise tax account, the local real estate excise tax
20 account, the local sales and use tax account, the medical aid account,
21 the mobile home park relocation fund, the multimodal transportation
22 account, the municipal criminal justice assistance account, the
23 municipal sales and use tax equalization account, the natural resources
24 deposit account, the oyster reserve land account, the pension funding
25 stabilization account, the perpetual surveillance and maintenance
26 account, the public employees' retirement system plan 1 account, the
27 public employees' retirement system combined plan 2 and plan 3 account,
28 the public facilities construction loan revolving account beginning
29 July 1, 2004, the public health supplemental account, the public works
30 assistance account, the Puyallup tribal settlement account, the real
31 estate appraiser commission account, the regional mobility grant
32 program account, the resource management cost account, the rural
33 Washington loan fund, the site closure account, the small city pavement
34 and sidewalk account, the special wildlife account, the state
35 employees' insurance account, the state employees' insurance reserve
36 account, the state investment board expense account, the state
37 investment board commingled trust fund accounts, the supplemental
38 pension account, the Tacoma Narrows toll bridge account, the teachers'

1 retirement system plan 1 account, the teachers' retirement system
2 combined plan 2 and plan 3 account, the tobacco prevention and control
3 account, the tobacco settlement account, the transportation
4 infrastructure account, the transportation partnership account, the
5 tuition recovery trust fund, the University of Washington bond
6 retirement fund, the University of Washington building account, the
7 volunteer fire fighters' and reserve officers' relief and pension
8 principal fund, the volunteer fire fighters' and reserve officers'
9 administrative fund, the Washington fruit express account, the
10 Washington judicial retirement system account, the Washington law
11 enforcement officers' and fire fighters' system plan 1 retirement
12 account, the Washington law enforcement officers' and fire fighters'
13 system plan 2 retirement account, the Washington public safety
14 employees' plan 2 retirement account, the Washington school employees'
15 retirement system combined plan 2 and 3 account, the Washington state
16 health insurance pool account, the Washington state patrol retirement
17 account, the Washington State University building account, the
18 Washington State University bond retirement fund, the water pollution
19 control revolving fund, and the Western Washington University capital
20 projects account. Earnings derived from investing balances of the
21 agricultural permanent fund, the normal school permanent fund, the
22 permanent common school fund, the scientific permanent fund, and the
23 state university permanent fund shall be allocated to their respective
24 beneficiary accounts. All earnings to be distributed under this
25 subsection (4)(a) shall first be reduced by the allocation to the state
26 treasurer's service fund pursuant to RCW 43.08.190.

27 (b) The following accounts and funds shall receive eighty percent
28 of their proportionate share of earnings based upon each account's or
29 fund's average daily balance for the period: The aeronautics account,
30 the aircraft search and rescue account, the county arterial
31 preservation account, the department of licensing services account, the
32 essential rail assistance account, the ferry bond retirement fund, the
33 grade crossing protective fund, the high capacity transportation
34 account, the highway bond retirement fund, the highway safety account,
35 the motor vehicle fund, the motorcycle safety education account, the
36 pilotage account, the public transportation systems account, the Puget
37 Sound capital construction account, the Puget Sound ferry operations
38 account, the recreational vehicle account, the rural arterial trust

1 account, the safety and education account, the special category C
2 account, the state patrol highway account, the transportation 2003
3 account (nickel account), the transportation equipment fund, the
4 transportation fund, the transportation improvement account, the
5 transportation improvement board bond retirement account, and the urban
6 arterial trust account.

7 (5) In conformance with Article II, section 37 of the state
8 Constitution, no treasury accounts or funds shall be allocated earnings
9 without the specific affirmative directive of this section.

10 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
11 this act, referencing this act by bill or chapter number, is not
12 provided by June 30, 2007, in the omnibus appropriations act, this act
13 is null and void.

14 NEW SECTION. **Sec. 11.** Sections 1 through 4 and 8 of this act
15 constitute a new chapter in Title 43 RCW.

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